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January 30, 2017

The Honorable Ronnie Abrams
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: United States v. Jason Galanis et al
16-cr-0371-4 (RA)

Dear Judge Abrams:

We represent Bevan Cooney, one of the defendants in above-referenced case. We write to join the emergency application made by counsel representing Devon Archer on January 27, 2017, to compel (a) the government to produce a search warrant and supporting application that it apparently secured last month, and to (b) order Google to refrain from providing data responsive to the warrant until the defense has had a reasonable amount of time to review the warrant and application and determine whether to challenge it. (Dkt. 126)

This morning, based on my inquiry concerning the above referenced motion that was filed by Mr. Archer's attorney, I learned that the government had served a search warrant upon Google that compelled the release of information related to a Google account, which appears to be associated with Mr. Cooney. At approximately 3:06 p.m. today, Google provided us with a copy of the warrant that is redacted in several respects. Just as in the case of Mr. Archer, the warrant was signed on December 28, 2016, more than one month ago and the Government presented the warrant to Magistrate Judge Moses, rather than to Your Honor. Google has also notified us that it will produce responsive data to the Government, without further notice, unless it receives a copy of an objection filed with the Court. The warrant gave Google 30 days to produce responsive records; if the government served the warrant on the day it was issued, therefore the deadline for production would be past due. Absent an agreement with the government to hold off on collecting the Google data, Mr. Cooney is filing this objection.

I also had the opportunity to speak with the government earlier today and the government advised undersigned counsel, that the government objects to turning over the requested warrant and application at the present time. I further notified the government that I would be joining in Mr. Archer's motion as set forth herein.

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Based on the foregoing, it appears that the government has obtained, but thus far refused to produce a search warrant that is almost certainly subject to challenge, and which calls for massive amounts of personal, irrelevant and/or attorney-client privileged materials without any meaningful review procedure. For the reasons set forth in Devon Archer's emergency motion filed with this Court on January 27, 2017, we join in the legal arguments as set forth in their motion (Doc. 126) and we ask that the Court should enter an order (a) compelling the government to immediately produce copies of the warrant and application, and (b) requiring Google to refrain from providing data responsive to the warrant for a period of 30 days from the date that the government makes such production so that Mr. Cooney may make any appropriate motion to challenge the warrant.

Finally, we understand that Your Honor has set a hearing date for tomorrow, January 31, 2017 at 4:30 p.m. for the government and counsel to be heard on this issue. Based on the foregoing, counsel for Mr. Cooney expects to be present at that hearing date unless the Court shall Order undersigned counsel to be present at a different date and time, and respectfully undersigned counsel requests that the Court confirm that Mr. Cooney's presence is excused. This Court previously endorsed Mr. Cooney's waiver of appearance at pre-trial conferences (Dkt. 82). As the Court is aware Mr. Cooney resides out of town and in light of the emergency nature of this motion and hearing, it would be both difficult and expensive for him to make last minute travel arrangements. Of course, I will fully brief Mr. Cooney on the results of the hearing and continue to keep him informed of all that transpires in Court.

Thank you for your consideration.

Respectfully submitted,

/S/

Paula J. Notari
Attorney for Bevan Cooney

cc:

AUSA Brian Blais (via ECF & email)
AUSA Rebecca Mermelstein (via ECF & email)
AUSA Aimee Hector (via ECF & email)
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Bevan Cooney (via email)

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